

REMARKS

The Official Action dated June 4, 2003 has been received and its contents carefully noted. In view thereof, claims 9 and 10 have been cancelled with the subject matter thereof being added to Independent claim 1 in order to better define now which applicant regards as invention. Accordingly, claims 1 through 4 and 6 through 8 are presently pending in the instant application.

Initially, Applicants wish to direct the Examiner's attention to paragraph four of the Official Action where claim 10 has been rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 5,541,436 issued to Kwong, *et al.* in view of U.S. Patent No. 6,215,163 issued to Hori *et al.* and further in view of U.S. Patent No. 6,391,732 issued to Gupta, *et al.* This rejection is especially traversed in that the patent to Gupta, *et al.* cannot be considered prior art to Applicants' claimed invention.

As the Examiner can readily appreciate, the Gupta, *et al.* reference issued on May 21, 2002 from U.S. Application Serial No. 09/595,061 filed June 16, 2000. In this regard, filed concurrently herewith is a verified translation of applicant's priority document, namely, Japanese Application No. 11-236792 filed August 24, 1999. Accordingly, with the filing of the verified translation, it is respectfully submitted that the patent to Gupta *et al.* and the subject matter set forth therein is no longer available to the Examiner as prior art. Therefore, it is respectfully submitted that applicant's claimed invention as now set forth in independent claim 1 which has been amended to include the subject matter of previous dependent claims 9 and 10 clearly distinguishes over the teachings of Kwong, *et al.* in view of Hori, *et al.* in the absence of the teachings of Gupta, *et al.*

With reference now to paragraph 1 of the Official Action, claims 1, 2, 4 and 6 have been rejected under 35 U.S.C. §103(a) as being anticipated by Kwong, *et al.* in view of Hori, *et al.* This rejection is respectfully traversed in that the combination proposed by the Examiner neither discloses nor suggests that which is presently set forth by Applicants' claimed invention.

As discussed in detail hereinabove, independent claim 1 has been amended to include the subject matter of previous dependent claims 9 and 10. Accordingly, in that independent claim 1 now positively recites a step forming a first side wall with a "L" shaped cross-sectional view on the sides of the gate electrode and the protecting layer on the gate, and a second side wall that spreads over the side and the base of the first side wall, it is respectfully submitted that applicant's claimed invention clearly distinguishes over the teachings of Kwong, *et al.* and Hori, *et al.* as is appreciated by the Examiner in the official action. Therefore, as noted hereinabove, it is respectfully submitted that applicant's claimed invention as set forth in independent claim 1 as well as those claims which depend therefrom is now in proper condition for allowance.

Reference now to paragraphs 2 and 3 of the Official Action, claim 3 has been rejected under 35 U.S.C. §103(a) as being anticipated by Kwong, *et al.* in view of Hori, *et al.* and further in view of U.S. Patent No. 6,380,056 issued to Shue, *et al.* and claim 9 has been rejected under 35 U.S.C. §103(a) as being anticipated by Kwong, *et al.* in view of Hori, *et al.* and further in view of U.S. Patent No. 5,817,562 issued to Cheng, *et al.* Each of these rejections are respectfully traversed in that the combination proposed by the Examiner neither discloses nor suggests that which is presently set forth by applicant's claimed invention.

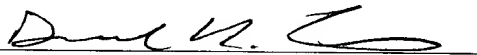
As noted hereinabove, claim 1 has been amended to include the subject matter of dependent claims 9 and 10 and is now believed to clearly distinguish over the prior art of

record. Moreover, in that claim 3 is directly depended upon independent claim 1 and includes all limitations thereof, further discussion with respect to rejection is no longer believed to be warranted.

Therefore, in view of the foregoing it is respectfully requested that Applicants' Verified Translation of the Priority Document be fully considered and accepted by the Examiner, that the rejections of record be reconsidered and withdrawn, that claims 1 through 4 and 6 through 8 be allowed and that the application be passed to issue.

Should the Examiner believe a conference would be beneficial in expediting the prosecution of the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,



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